



Federally Speaking



Number 8

by Barry J. Lipson

JOIN THE REBELLION!

*The Western Pennsylvania Chapter of the Federal Bar Association (FBA), in cooperation with the Allegheny County Bar Association (ACBA), brings you the editorial column **Federally Speaking***

THERE IS STILL TIME TO JOIN THE REBELLION! On Wednesday, October 17, 2001, join your Brothers and Sisters of/at the Bar (and Bench) for the annual Blast from the Past, the “**Whiskey Rebellion**,” at 5 pm, in the Engineers Society Ballroom. The FBA West Penn Chapter will host your return to the era of the clash between George Washington’s **Federal Troops**, the Unabashed Revenuers, and the Honest Western Pennsylvanian Rebel Farmers. Corn Whiskey Punch (included), Bourbon Meat Tastees and other Revolutionary Vitals will fill your gullets, while Kolonial Karaoke and Sing-A-Longs will abound. All true “Sons and Daughters of the Bar” (and Bench) are welcome at the cost of a mere \$10.00 each (except that the cost for each “Unabashed Revenuer” is \$50.00, plus a round of drinks at the cash bar). CAUTION: No bashing the Unabashed Revenuers at this Blast/Bash! **A ONE HOUR/CREDIT CLE** on the “Legal Aspects of the Whiskey Rebellion,” will immediately precede the “Blast,” at the meager stipend of \$25.00 (including Blast). In addition, Legal Eagles who join the FBA between now and the arrival of the original **George W’s Federal Troops** will be the guests of the Chapter at the Blast and the CLE. However, *reservations* are a *must* for the Blast and/or CLE, and may be made by contacting Fran DiSalle, RSH&D, 900 Oliver Building, Pittsburgh, PA 15222 (412/434-8596).

ARE YOU PREPARED FOR THE COURTROOM OF THE FUTURE? The FBA West Penn Chapter continues to provide instruction to the local **Federal Bar and Bench** on the awe and wonder of the new **Electronic Courtroom**, on behalf of **the U.S. District Court for the Western District of Pennsylvania**, through its usually over-subscribed CLE program “The Ons and Offs of The Electronic Courtroom.” The next session will be held at the **Federal Courthouse**, and in the **Electronic Courtroom**, on Monday, the twenty-second day of October 2001, at 4:00 PM. This Up-To-The-Minute Courtroom is presided over by **U.S. District Judge Robert J. Cindrich**, who will participate in the presentation. For the first time, it is planned that the off-site witness, who will be the subject of direct and cross-examination, will be testifying from Chicago. This project was undertaken at the request of **he Clerk of Court** and FBA Advisory Council Member James A. Drach. The cost is \$35.00 for 2 hours of substantive CLE credit. *

U.S. SUPREME COURT JUSTICE O'CONNOR RECEIVES FBA AWARD. We hope you did not miss this historic event, where on September 21, 2001, the Western Pennsylvania Chapter of the Federal Bar Association, at ceremonies held at the Duquesne University School of Law, awarded to **U.S. Supreme Court Justice Sandra Day O'Connor**, the **First Carol Los Mansmann Distinguished Public Service Award**, in recognition of Justice O'Connor's Twentieth Anniversary on the **United States Supreme Court**. Judge Mansmann of the **U.S. Court of Appeals for the Third Circuit** is a founding member of the West Penn FBA Advisory Council and is an FBA Honorary Member. And earlier in September, West Penn Chapter Officials lunched with **Chief U.S. District Court Judge D. Brooks Smith** and eight visiting **Russian Judges**, to explain to our visitors how bar associations serve the Bench and the Bar.

ALERT! CARNIVORE RUNNING RAMPANT! According to an ACLU Alert, the **Federal Bureau of Investigations (FBI)** is ignoring the privacy protections of the **Fourth Amendment** and sinking its teeth into the Internet by conducting searches on the Internet through the use of an online wiretapping system labeled **"Carnivore."** The **FBI** allegedly "forces Internet Service Providers (ISP's) to attach a black box to their networks -- essentially a powerful computer running specialized software - through which all of their subscribers' communications flow." In traditional wiretaps, the government is required to "minimize its interception of non-incriminating -- or innocent -- communications. But Carnivore does just the opposite by scanning through tens of millions of emails and other communications from innocent Internet users as well as the targeted suspect." It is reported that Rep. Richard Armey (R-TX) has recently announced that he is considering seeking "budget cuts" to stop the **FBI's** use of Carnivore.

SLAVERY IN THE NEW MILLENNIUM. Late this summer, a farm labor contractor, Michael Allen Lee, was sentenced by the **U.S. District Court** in Florida to four years in **Federal** prison (plus three years of supervised release), for the use of threats, violence and crack cocaine to enslave homeless African-Americans, forcing them to pick oranges. Mr. Lee, after recruiting these men, created "company store" debt for each of them through short-term loans for rent, food, cigarettes, and cocaine. He then used this indebtedness, along with force, abduction and threats, to compel them to harvest fruit against their will and to prevent them from leaving his labor crew. "Forcing any individual into slavery-like working conditions is reprehensible and illegal in modern-day America [Involuntary Servitude and Peonage, [18 U.S.C. Sections 1581, 1584](#)]," advised **Assistant Attorney General** Ralph F. Boyd of the **U.S. Justice Department's Civil Rights Division**. Other instances of modern-day slavery have included Russian women being recruited and imported into the United States after being told that they would be given work as legitimate dancers, waitresses and entertainers, but instead, being forced to work as erotic dancers and prostitutes; and Mexican farm workers being smuggled into the United States and then held and forced to work for their captors to pay off their "smuggling fees." To prevent such exploitation, the **National Worker Exploitation Task Force (WETF)** was created in April 1998. It is chaired by the **U.S. Assistant Attorney General for Civil Rights** and the Solicitor of the **U.S. Department of Labor**, and today includes 15 regional task forces. Cases of slavery or "trafficking in persons," may be reported to the **WETF** complaint line at 1-888-428-7581. See also <http://www.usdoj.gov/crt/crim/wetf>.

THE CASE OF MICROSOFT, CHICAGO AND THE HEREAFTER. Microsoft's developmental "code name" for its Windows 95/98 Operating System was "Chicago." In addition to being the "Windy City" (and there has been a lot of that surrounding the defense in the Microsoft Antitrust prosecution), I think of Chicago as the place "where you're not allowed to vote after you've been in the ground three years" (which is my traditional observation responding to the often repeated election day quip "Vote Early, Vote Often"). Why does this come to mind now? Because of the recent Los Angeles Times report that at least two residents of the "hereafter" have come to Microsoft's defense. Apparently, as "part of a carefully orchestrated nationwide [letter-writing] campaign to create the impression of a surging grass-roots movement," aimed at pressuring the 18 State Attorneys General who have joined the **U.S. Justice Department** in suing Microsoft, "letters purportedly written by at least two dead people landed on the desk of Utah Atty. Gen. Mark Shurtleff, ... along with about 400 others from Utah citizens.... . The campaign, orchestrated by a group partly funded by Microsoft, goes to great lengths so that the letters appear to be spontaneous expressions from ordinary citizens. Letters sent in the last month are printed on personalized stationery using different wording, color and typefaces--details that distinguish those efforts from common lobbying tactics that go on in politics every day. Experts said there's little precedent for such an effort supported by a company defending itself against government accusations of illegal behavior." But seeing beyond this ruse is "elementary, my dear Watson." First you will note how "the same sentences appear in the letters and that some return addresses appear invalid." "Aye, Watson, have you ever heard of 'Tucson, Utah?" Second, as Rick Cantrell, the Sherlock Holmes of the Utah AG's office observed: "You can just tell these were engineered. When there's a real groundswell, people walk in, they fax, they call. We get handwritten letters." I guess, Mr. Gates, not everything is computerizable yet!

LIBERTARIANS CLAIMS FED ACTION IS SHARKING! Steve Dasbach, the National Director of the Libertarian Party, postulates that at least one government program "really cost an arm and a leg," to wit, "the **Federal Shark-Stock Rebuilding Project** -- which has apparently contributed to a 325% increase in the number of vicious shark attacks off the coast of Florida." Section 304(c) of the **Magnuson Fishery Conservation and Management Act of 1976** (16 U.S.C. 1801-1882), gives the **U.S. Secretary of Commerce** authority to prepare and implement a fishery management plan for any fishery which requires management, including migratory species such as oceanic sharks. There are three parts to the shark protection regulations: (1) quotas based on total poundage taken; (2) requiring permits and limits for all fishermen who catch and sell shark meat or fins taken from **Federal**, State or international waters; and (3) banning the practice of live "finning" (fin removal for use in shark's fin soup). According to the Libertarians, "the **Federal Government** began a **Shark-Stock Rebuilding Project** in 1993, in an effort to protect what some said was an endangered species. **New federal Regulations** shortened the commercial shark-fishing season and strictly limited the number of sharks that could be harvested. As a result, as many as 236,900 fewer sharks were caught in 1999 than in 1993." Florida then "followed suit and instituted a strict one-shark-per-person fishing limit. They also banned two common fishing techniques, which created a shark 'sanctuary' near shore, where most attacks occur." While Dasbach acknowledges, "it is impossible to say with 100% certainty that the shark-stock rebuilding program directly caused those attacks," with "Spockian" logic he asserts "there must be some connection."

ACL DEFENDS RELIGIOUS LIBERTY. “When Pastor John Amandola of ‘Romans Chapter 10 Ministries’ applied to use the [Babylon] Town Hall Annex for Sunday worship services and Thursday evening Bible studies, town commissioner James Namely agreed. That was no surprise. This ironically named community in Long Island, New York, allows a wide variety of groups to rent town facilities ... until the complaint came in. Someone in town **OBJECTED** to the fact that Pastor Amandola was conducting ‘altar calls’ during his meetings there. So the commissioner revoked Pastor Amandola's permission! Now get this: The town has **NO WRITTEN POLICY** about who can and who cannot use their facilities. Commissioner Namely makes all of these decisions, completely on his own. The commissioner says that Bible studies are fine, religious organizations are welcome, singing religious songs is okay, and praying is allowed. But no altar calls, no mentioning of a ‘specific deity’... We persuaded the **U.S. Court of Appeals** to declare the Town of Babylon's policy **unconstitutional** ...” (**CAPITALIZED** emphasis not added). Chalk another victory up for the **ACLU**? No, this good work was attributed to the **ACLJ** by its Chief Counsel Jay Alan Sekulow. Most interesting, as these two organizations are traditionally at opposite ends of **Church-State Constitutional Issues spectrum**, and as each usually consider the other to be its “nemesis,” or certainly, at a minimum, the “Devil’s Advocate.”

THE FEDERAL CLE CORKBOARD™

Tues, October 9, 2001—Social Security - What to Know? Where to Go?
Karl Osterhout and Cynthia Berger
FBA LearnAbout™ Monthly CLE Luncheon Series*

Wed, October 17, 2001 – The Legal Aspects of the Whiskey Rebellion,
FBA One Hour CLE Seminar from 4 to 5 PM*

Mon, October 22, 2001- The Ons and Offs of The Electronic Courtroom,
U.S. District Judge Robert J. Cindrich
FBA Late Afternoon CLE (4-6:00 PM) Seminar*

Fri, November 9, 2001—United States Supreme Court Review –
Professor Ken Gormley, Chair
FBA All Day CLE Seminar*

Tues, November 13, 2001--FBA Construction Dispute Resolution Seminar,
Bradley Mellor, Kim Bobrowsky and Kenneth Kelsey
FBA All Day CLE (9 AM – 4 PM) Seminar*

Tues, November 13, 2001--Leading Edge Federal Construction Contract Issues,
FBA LearnAbout™ Monthly CLE Luncheon Series*

Tues, December 11, 2001—The Federal Mediation and Conciliation Service,
Jack Yoedt and Fulton Micklos
FBA LearnAbout™ Monthly CLE Luncheon Series*

*FBA - For information and reservations call Arnie Steinberg at 412/434-1190
Check this Column each month for possible revisions.

*The purpose of **Federally Speaking** is to keep you abreast of what is happening on the Federal scene. All Western Pennsylvania CLE providers who have a program or programs that relate to Federal practice are invited to advise us as early as possible, in order to include mention of them in the **Federal CLE Corkboard™**. Please send Federal CLE information, any comments and suggestions you may have, and/or requests for information on the Federal Bar Association to: Barry J. Lipson, Esq., FBA Third Circuit Vice President, at the Law Firm of Weisman Goldman Bowen & Gross, 420 Grant Building, Pittsburgh, Pennsylvania 15219-2266. (412/566-2520; FAX 412/566-1088; E-Mail blipson@wgbglaw.com).*

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